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LETTER DATED 2 JULY 1996 FROM THE PERMANENT REPRESENTATIVE OF BOSNIA AND HERZEGOVINA TO THE UNITED NATIONS ADDRESSED TO THE PRESIDENT OF THE SECURITY COUNCIL

The future, indeed survival, of the International War Crimes Tribunal for the Former Yugoslavia and peace in Bosnia and Herzegovina are before the Council and will be determined imminently. Unfortunately, it is abundantly clear that some of the "parties" to the Dayton/Paris Accords are neither committed to the future of the Tribunal nor to that of the Peace Agreement, and, furthermore, their recent actions are increasingly designed as a direct challenge to undermine the Agreement irreversibly. Over a year after the first indictments, only the Government of Bosnia and Herzegovina has fully complied with the orders of the Tribunal. Over half a year after the solemn signatures - including mine - were placed on the Dayton/Paris Accords, only the Government of Bosnia and Herzegovina has "fully cooperated" with the Tribunal and its orders as is required by the Accords.

Unfortunately, the response has also been woefully inadequate of the Contact Group countries as a whole, who authored and committed themselves to the implementation of the Accords, as well as the United Nations-mandated institutions conceived by the Accords to ensure implementation. No, it is not accurate to deflect accountability by contending that it is up to the "parties" to implement the Peace Accords. The support, even direct participation of the sponsors of the Peace Agreement, in particular, and of the international community, in general, was always necessary and called upon by the peace process and accords. Otherwise, it would not have been necessary to impose sanctions upon Serbia and Montenegro (the Federal Republic of Yugoslavia) and on the Serb-occupied areas within Bosnia and Herzegovina to encourage Belgrade and Pale to opt for peace. It would not have been necessary to have the Contact Group sponsor the Dayton talks and commit itself to faithful implementation.

Indeed, a war crimes tribunal in The Hague to deliver justice would also have been superfluous. Bosnia and Herzegovina did not need an international war crimes court to be established in a foreign land, to be presided over by foreign judges and prosecutors, and to dispense foreign justice for crimes committed against Bosnian citizens, and on Bosnian sovereign territory. The logic behind the Tribunal is the comprehensive application of justice: from apprehension and arrest to investigation and trial. Indeed, only this can be the logic behind

this or any other future international crimes court. Therefore, it cannot be argued that the Implementation Force (IFOR) has no responsibility to apprehend war criminals. After all, the crimes committed were perpetuated not only against Bosnian citizens, but also against the international community and our collective code of justice.

A more sinister and ultimately dangerous proposition has been floated as to why diligence in apprehending the war criminals and supporting the Tribunal should not match the rhetoric. This proposition combines twisted logic and shameful ethnic bias and, as such, is only subtly put forth. The contention is that it is necessary for peace to bypass justice and that the Dayton/Paris Accords in effect recognize this logic because, after all, the argument goes, this is the Balkans.

Firstly, any peace accord that would bypass justice is a dead end road that would abort reconciliation and come back to haunt us all. Secondly, the Bosnian Government, and I as a signatory, never would sign any agreement that deprived our people of justice. In fact, the language of the Dayton/Paris Accords emphasizes the requirement for full cooperation rather than repenting such. Anyway, under international law, violations of international humanitarian law cannot be amnestied and any such attempt or interpretation of any agreement is null and void. The failure to arrest and extradite war criminals is a violation of the Dayton/Paris Accords as well as a sanctionable failure to heed the orders of the Tribunal. The removal of war criminals from positions of nominal political power is not enough. This strategy has already proven a failure as Karadžić demands his terms rather than the international community only accepting his outright arrest. Apprehension and extradition are mandated by the letter and spirit of the Dayton/Paris Accords, by the authority of the Security Council and Article 29 of the Statute of the Tribunal, and are absolutely necessary for free and fair democratic elections, reintegration, reconciliation and peace in Bosnia and Herzegovina.

Now it is up to the Security Council to decide how it will respond to the challenge of the future of the Tribunal and peace. The Council has received from the Tribunal communications and then, in person, heard the calls of its President, Judge Antonio Cassese, for resolute measures that can be taken to compel cooperation with the Tribunal, a creation of this same Council.

My pleas also may not attract an immediate reflex of sympathy since my criticism spares few, especially those responsible for sponsoring and implementing the Dayton/Paris Accords. But please do understand my letter to be an alarm bell meant to awaken all to the dangers to the Tribunal and to peace. Understand my plea to be a desperate call not only for justice but to save the Dayton/Paris Accords from following the way of the Vance/Owen plan and so many others. Failure to bring suspected war criminals to justice and to support the work of the Tribunal would be the end of the Dayton/Paris Accords. Some Council members may attempt to neutrally define the Council's inertia on this matter, but for us, the Bosnians, we can draw our own conclusions.

We call upon the Security Council to undertake the necessary steps, all within its purview, to safeguard the peace as well as the Tribunal. Firstly, the Council has, as envisioned by resolution 827 (1993), which established the

Tribunal, to promptly sanction those parties which do not comply with the orders of the Tribunal. Secondly, in the absence of full compliance, the Security Council should call upon IFOR to arrest and extradite indicted war criminals to The Hague. Finally, it must be clear that elections, while the Tribunal's orders are ignored, cannot be considered legal, nor free and fair.

I hope the Council will be prepared to heed our call and the call of the Tribunal it gave birth to. At the same time, I recognize that certain members of the Council may be more likely to demand a rebuke for my letter than for sanctions against those who actually trivialize the authority of the Security Council and the Tribunal. The right priorities and principles are the future for peace in Bosnia and Herzegovina and for the Security Council's bedrock authority.

May I ask for your kind assistance in circulating the present letter as a document of the Security Council.

(Signed) Muhamed SACIRBEY
Ambassador
Permanent Representative
Special Envoy